

380.4 MAJORITY REQUIREMENT--TIE VOTE. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the council members, except when the mayor may vote to break a tie vote in a city with an even number of ~~councilmen~~ council members, as provided in section 372.4. A motion to spend public funds in excess of ten thousand dollars on any one project, or a motion to accept public improvements and facilities upon their completion, also requires an affirmative vote of not less than a majority of the council members. Each ~~councilman's~~ council member's vote on an ordinance, amendment, or resolution must be recorded.

Sec. 13. This bill is effective January 1, 1979.

Approved April 13, 1978

CHAPTER 1044

GRAIN DEALERS

S. F. 389

AN ACT relating to persons who engage in the business of buying or selling grain, or who participate in the buying or selling of grain as a bargaining agent for the benefit of others, and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section sixty-eight A point seven (68A.7), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Financial statements submitted to the Iowa state commerce commission pursuant to chapter five hundred forty-two (542) or chapter five hundred forty-three (543) of the Code, by or on behalf of a licensed grain dealer or warehouseman or by an applicant for a grain dealer license or warehouse license.

Sec. 2. Section five hundred forty-two point one (542.1), subsection three (3), Code 1977, is amended to read as follows:

3. "Grain dealer" shall mean any person who is engaged in the business of buying grain for resale or any merchandiser. ~~This~~ However, "grain dealer" shall not be construed to mean a person solely engaged in buying or selling on the board of trade, grain on-the-board-of-trade-or-any future contracts; a person who sells-purchased purchases grain only for sale in a registered feed; a person engaged in the business of

selling agricultural seeds regulated by chapter one hundred ninety-nine (199) of the Code; a person buying or selling grain only as a farm manager; or an executor, administrator, trustee, guardian, or conservator of an estate; or a bargaining agent as defined in section thirteen (13) of this Act.

Sec. 3. Section five hundred forty-two point one (542.1), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. "Merchandiser" means a person who buys grain in the capacity of a broker for the purpose of resale for compensation or a commission and who may or may not operate a warehouse or vehicles used in the transportation of grain.

Sec. 4. Section five hundred forty-two point three (542.3), Code 1977, is amended to read as follows:

542.3 LICENSE REQUIRED--FINANCIAL RESPONSIBILITY. No A person shall not engage in the business of a grain dealer in this state without having obtained a license issued by the commission. Each application for a license to engage in business as a grain dealer shall be filed with the commission and shall be in a form prescribed by the commission. The application shall include the name of the applicant, its principal officers if the applicant is a corporation or the active members of a partnership if the applicant is a partnership and the location of the principal office or place of business of the applicant. A separate license shall be required for each location at which the records are normally kept for transactions of the grain dealer. The application shall also list the number of trucks or tractor trailer units that will be used in the transportation of grain purchased for resale ~~or grain transported into this state for resale.~~ The application shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and the net worth of the applicant. The financial statement must be prepared according to generally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon a petition filed with the commission, the commission may allow asset valuations in accordance with a competent appraisal. Deferred pricing contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared. In order to receive and retain a license the applicant must have and maintain a net worth of an applicant must exceed five at least twenty-five

thousand dollars or provide bond in addition to that required by section five hundred forty-two point four (542.4) of the Code in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. The commission may require additional information or verification with respect to the financial resources of the applicant and the applicant's ability to pay producers for grain purchased from them.

Sec. 5. Section five hundred forty-two point four (542.4), Code 1977, is amended to read as follows:

542.4 BOND REQUIRED. Any person applying for a license to operate as a grain dealer in accordance with this chapter shall, as a condition to the granting of the license, file with the commission a bond payable to the state of Iowa with a corporate surety approved by the commission in a penal sum of ~~fifteen~~ twenty-five thousand dollars per license conditioned that the applicant will pay the purchase price of any grain to the seller, and that the grain dealer owns or controls, free of liens, any grain which he or she offers for sale; provided that the aggregate liability of the surety to such persons shall in no event exceed the sum of such bond. One bond, cumulative as to minimum requirements, shall be required where a person has multiple licenses but in no event shall the total amount of bond exceed one hundred thousand dollars. No bond shall be canceled by a surety before at least sixty days' notice by certified mail to the commission and the grain dealer. The liability of the surety shall cover all purchases and transactions made by the grain dealer during the time the bond is in force. A grain dealer's bond filed with this commission shall be in continuous force until canceled by the surety. The liability of the surety on any bond required by the provisions of this chapter shall not accumulate for each successive license period during which the bond is in force.

Sec. 6. Section five hundred forty-two point five (542.5), Code 1977, is amended to read as follows:

542.5 LICENSE. Upon the filing of the application and compliance with the terms and conditions of this chapter and rules of the commission, the commission shall issue a license to the applicant. The license shall terminate on the thirtieth of June of each year. A grain dealer's license may be renewed annually by the filing of a renewal fee, a current financial statement and a renewal application on a form prescribed by

the commission accompanied by a current financial statement and the renewal fee. An application for renewal shall be received by the commission before the thirtieth of June. A grain dealer license which has terminated may be reinstated by the commission upon receipt of a proper renewal application, a current financial statement, the renewal fee, and penalty fee in the amount of ten dollars from the grain dealer, provided that such materials are filed within thirty days from the date of termination of the grain dealer license. The commission may cancel a license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

Sec. 7. Section five hundred forty-two point eight (542.8), Code 1977, is amended to read as follows:

542.8 PAYMENT. A person licensed as a grain dealer shall make payment of pay the purchase price to the owner or his or her agent for grain upon delivery or demand of the owner or his agent, but not later than thirty days after delivery by the owner or agent unless in accordance with the terms of a duly executed deferred payment or deferred pricing contract. A person who holds a bonded warehouse license may issue deferred payment contracts in accordance with the provisions of section 543.17 and payment shall be made in accordance with the terms of the contract. The contract in addition to such other information as may be required shall contain the following:

1. The seller's name and address.
2. The conditions of delivery.
3. The amount and kind of grain delivered.
4. The price per bushel or basis of value.
5. The date payment is to be made.

The contract must be numbered and signed by both parties and executed in duplicate. One copy shall be retained by the grain dealer and one copy shall be delivered to the seller. Upon revocation, termination, or cancellation of a grain dealer license, the payment date for all deferred payment or deferred pricing contracts shall be advanced to a date not later than thirty days after the effective date of such revocation, termination or cancellation and the purchase price for all unpriced grain shall be determined as of the effective dates of revocation, termination or cancellation in accordance with all other provisions of the contract. However, if the business of the grain dealer is sold to another licensed grain

dealer, deferred payment or deferred pricing contracts may be assigned to the purchaser of the business. As used in this section, delivery means the transfer of title to and possession of grain by the seller to the grain dealer or to another person in accordance with the agreement of the seller and the grain dealer. As used in this section, payment means the actual payment or tender of payment by the grain dealer to the seller of the agreed purchase price, or in the case of disputes as to sales of grain, the undisputed portion of the purchase price without reduction for any separate claim of the grain dealer against the seller.

Sec. 8. Section five hundred forty-two point nine (542.9), Code 1977, is amended to read as follows:

542.9 INSPECTION OF PREMISES, BOOKS AND RECORDS. The commission may inspect the premises used by any grain dealer in the conduct of his or her business at any time ~~and the~~. The books, accounts, records and papers of every such grain dealer which pertain to grain purchases shall, during ordinary business hours, be subject to inspection by the commission during ordinary business hours. The transporter of grain in transit shall have in his or her possession bills of lading or other documents covering such grain in transit and such documents shall be available for inspection by the commission upon request. Any grain dealer licensed in this state who does not have a place of business within the state upon the request of the commission shall make available and furnish to the commission upon request at any reasonable time and place the commission may set all such books, accounts, records and papers of grain transactions within this state ~~at any reasonable time and place that the commission may set for inspection thereof.~~ Where there is good cause to believe that a person is engaged without a license in the business of a grain dealer in this state, the commission may inspect the books, papers, and records of such person which pertain to grain purchases.

Sec. 9. Section five hundred forty-two point ten (542.10), Code 1977, is amended by striking unnumbered paragraph three (3).

Sec. 10. Chapter five hundred forty-two (542), Code 1977, is amended by adding the following new section:

NEW SECTION. CLAIMS--NOTICE. Upon revocation, termination or cancellation of a grain dealer license, any claim for the purchase price of grain against the grain dealer shall be made in writing and filed with the grain dealer and with

the surety on the grain dealer bond within one hundred twenty days after revocation, termination or cancellation. Failure to make this timely claim shall relieve the surety of all obligations to the claimant. However, this section shall not be construed to reduce below the face amount of the bond then in effect the aggregate liability of the surety to other claimants.

Upon revocation of a grain dealer license, the commission shall cause notice of such revocation to be published once each week for two consecutive weeks in a newspaper of general circulation within the state of Iowa and in a newspaper of general circulation within the county of the grain dealer's principal place of business when that dealer's principal place of business is located in the state of Iowa. The notice shall state the name and address of the grain dealer, the effective date of revocation, and the name and address of the surety on the grain dealer bond. The notice shall also state that any claims against the grain dealer shall be made in writing and sent by ordinary mail or delivered personally within one hundred twenty days after revocation to the grain dealer and the surety on the grain dealer bond.

Sec. 11. Chapter five hundred forty-two (542), Code 1977, is amended by adding the following new section:

NEW SECTION. ENFORCEMENT OFFICERS. The commission may designate by resolution certain of its employees in the warehouse division to be enforcement officers. Each person so designated shall have the authority of a peace officer to make arrests for violations of this chapter.

Sec. 12. Chapter five hundred forty-two (542), Code 1977, is amended by adding the following new section:

NEW SECTION. NO OBLIGATION OF STATE. Nothing in this chapter shall be construed to imply any guarantee or obligation on the part of the state of Iowa, or any of its agencies, employees or officials, either elective or appointive, in respect to any agreement or undertaking to which the provisions of this chapter relate.

Sec. 13. NEW SECTION. As used in sections thirteen (13) through nineteen (19) of this Act, "bargaining agent" means a person, group, firm, association or corporation who bargains with buyers for the sale of grain for agricultural producers.

Bargaining agent shall not mean a person selling grain as a farm manager, or an executor, administrator, trustee, guardian, or conservator of an estate. A bargaining agent shall not take title to the grain but shall act only for or

on behalf of the beneficiaries whose product the bargaining agent is offering for sale. Unless the bargaining agent agreement provides that proceeds from grain sales shall be paid directly to the agricultural producer by the buyer, the bargaining agent agreement shall provide that proceeds shall be paid to and held in trust by either the bargaining agent, or a third person identified in the bargaining agent agreement as a trustee, for the benefit of the agricultural producers. As used in this section the term "grain" means as provided in section five hundred forty-two point one (542.1) of the Code.

Sec. 14. NEW SECTION. PERMIT REQUIRED OF BARGAINING AGENT. A person shall not engage in the business of a bargaining agent in this state without having obtained a permit issued by the Iowa state commerce commission. Each application for a permit to engage in the business of a bargaining agent shall be made with the commission, on a form prescribed by the commission which form of application shall require only information pertinent and necessary for the issuance of the bargaining agent permit. The applicant shall supply the commission with information to establish that proceeds from sales of grain which are executed by the bargaining agent on behalf of agricultural producers will be received and held in trust for the beneficiaries to assure payment of the proceeds of sale. The application shall also be accompanied by proof of bond pursuant to section sixteen (16) of this Act.

Sec. 15. NEW SECTION. BARGAINING AGENT'S PERMIT. Upon the filing of the application and compliance with the terms and conditions of sections thirteen (13) and fourteen (14) of this Act, the Iowa state commerce commission shall issue a permit to the applicant. The permit shall be good for one year from the date of issuance. The permit may be renewed annually by filing of a renewal application on a form prescribed by the commission accompanied by an annual report of the bargaining agent showing any additions to or modification of the trust relationship. The applicant for a bargaining agent permit or a renewal thereof shall pay a permit fee in the amount of twenty-five dollars. The commission may cancel a permit upon the request of a permittee.

Sec. 16. NEW SECTION. BOND REQUIRED OF BARGAINING AGENT. Any applicant for a permit to operate as a bargaining agent in accordance with this Act, as a condition to the granting

of the permit, shall file with the commerce commission proof of a bond which is in the form and with such surety or sureties as required by the commission covering the fiduciary responsibility of those trustees responsible to the beneficiaries. The bond shall be in a penal sum of fifty thousand dollars.

Sec. 17. NEW SECTION. INSPECTION OF BARGAINING AGENT'S BOOKS AND RECORDS. A bargaining agent's books, accounts, records and papers of grain transactions, and all books, accounts, records and papers relating to trust funds or to funds required by this Act to be held in trust, shall be subject to inspection by the commission during ordinary business hours. Where there is good cause to believe that a person is engaged without a permit in the business of a bargaining agent in this state, the commission may inspect the books, papers and records of such person.

Sec. 18. NEW SECTION. PENALTIES--MISDEMEANOR. Any person who engages in business as a bargaining agent without obtaining a permit or any person in violation of any other provision of sections thirteen (13) through seventeen (17) of this Act, or any bargaining agent who refuses to permit inspection of books, accounts or records of grain transactions as provided in this chapter, shall be guilty of a simple misdemeanor. Each day that any violation continues shall constitute a separate offense. Any person violating the provisions of this chapter may be restrained by an injunction. The permit of any person who has been found after a hearing, to have willfully violated the provisions of this chapter may be suspended for a reasonable time or revoked by the commission.

Sec. 19. NEW SECTION. SUSPENSION OR REVOCATION OF PERMIT. The commission may after hearing and upon information being filed with the commission by the head of the warehouse division of the commission or upon complaint filed by any person, suspend or revoke a bargaining agent permit issued under sections thirteen (13) through nineteen (19) of this Act for the violation of or failure to comply with the provisions of sections thirteen (13) through nineteen (19) of this Act or any rule adopted thereunder. An information or a verified complaint stating the grounds for suspension or revocation shall be filed with the commission in triplicate. The commission shall notify the permittee of the complaint and furnish the permittee with a copy of the information or the complaint and a copy of the order of the commission fixing

the time for a hearing, which time shall be at least five days from the date of notification. If the commission determines that the public good requires immediate action, the commission may, upon the filing of the information or the complaint and without hearing, temporarily suspend a permit pending the determination by it of the complaint. Judicial review of the actions of the commission may be sought in accordance with the terms of the Iowa administrative procedure Act.

The commission may revoke a bargaining agent permit upon information without hearing if the permittee fails to have sufficient bond on file with the commission, or if the permittee fails to submit to inspection.

Upon revocation of a permit, any claim of a creditor shall be filed against the former permittee within one hundred twenty days after the date of revocation. The commission shall provide for giving notice to all agricultural producers under contract with the person holding the bargaining agent permit of the revocation of the permit.

Approved June 23, 1978

CHAPTER 1045

LOCAL GOVERNMENT BONDS

H. F. 2023

AN ACT relating to the denominations in which bonds of local governmental units may be issued.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section seventy-five point ten (75.10), Code 1977, is amended to read as follows:

75.10 DENOMINATIONS OF BONDS. Notwithstanding any other provisions in the statutes to the contrary, issues of public bonds of every kind and character by counties, cities and school corporations shall be issued in amounts of one hundred dollars or multiples thereof not to exceed ten thousand dollars, except that if the purchaser of an issue of bonds requests and the body issuing the bonds agrees, a bond may be issued in a denomination which exceeds ten thousand dollars, provided the purchaser is an agency of the Federal Government.